

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	
)	
v.)	Cr. No. 2:15-cr-20019-JTF-tmp
)	
)	
GEREMY ATKINS,)	
)	
Defendant.)	
)	

**ORDER ADOPTING THE MAGISTATE JUDGE’S REPORT AND
RECOMMENDATION AND ORDER DENYING DEFENDANT’S MOTION TO
SUPPRESS AS MOOT**

Before the Court is the Defendant Jeremy Atkin’s Motion to Suppress Evidence filed on March 9, 2015. (ECF No. 19). On March 12, 2015, the undersigned court referred the motion to the United States Magistrate Judge for a report and recommendation pursuant to 28 U.S.C. 636(b)(1)(B). (ECF No. 22). On March 30, 2015, the Government filed its Response to Defendant’s motion. (ECF No. 25). On August 3, 2015, the Government filed a Supplemental Response to Defendant’s Motion to Suppress Evidence indicating that the Eclipse Brand 12 gauge shotgun, two shotgun shells, and the statement made to the officers regarding this evidence, or “Eclipse Evidence” would not be referenced at trial. (ECF No. 52). On the same date, the Magistrate Judge issued his report and recommendation that Defendant’s motion to suppress be denied as moot and without prejudice. (Report and Recommendation. (ECF No. 53). Neither party has filed any objections to the report and recommendation. Therefore, the

Court finds the Magistrate Judge's report and recommendation should be adopted and the Defendant's motion to suppress Denied as moot and without prejudice.

STANDARD OF REVIEW

A United States District Court Judge may refer certain dispositive motions, including motions to dismiss indictments, to a United States Magistrate Judge for submission of proposed findings of fact and conclusions of law for disposition by the District Judge pursuant to 28 U.S.C. §636(b); *U.S. v. Houston*, Case No. 3:13-10-DCRF, 2013 WL 3975405 *1 (E.D. Tenn. July 29, 2013). The District Judge may accept, reject or modify in whole or in part, the Magistrate's proposed findings and recommendations. *U.S. v. Raddatz*, 447 U.S. 667, 673-675 (1980), *reh'g den.*, 448 U.S. 916 (1980). See 28 U.S.C. § 636 (b)(1)(B). While most actions by a Magistrate Judge are reviewed for clear error, dismissal of indictments and motions to suppress evidence are among the motions in criminal matters that are subject to *de novo* review. See *U.S. Fidelity and Guarantee Co. v. Thomas Solvent Co*, 955 F.2d 1085, 1088 (6th Cir. 1992). In this case no objections were submitted.

After reviewing the Magistrate Judge's report and recommendation, and the Government's supplemental response that it will refrain from introducing the "Eclipse Evidence," the Court finds that the Magistrate Judge's report and recommendation should be adopted. It is therefore ordered that the Defendant's Motion to Suppress Evidence, ECF No. 19, is DENIED as MOOT and without prejudice.

IT IS SO ORDERED on this 7th day of August, 2015.

s/John T. Fowlkes, Jr.
JOHN T. FOWLKES, JR.
UNITED STATES DISTRICT JUDGE